

REMARKS

Claims 1-8 are all the claims pending in the application. By this Amendment, Applicant amends claims 1, 2, 6 and 8. No new matter is added. Support for the amendments is found, *e.g.*, at page 8 of the specification as filed. Reconsideration and allowance of claims 1-8 are respectfully requested in view of the following remarks.

I. Preliminary Matters

Applicant thanks the Examiner for accepting the drawings filed on February 25, 2008.

II. Rejections Under 35 U.S.C. § 103(a)

Claims 1-6 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,751,660 to Mansingh et al. (hereinafter "Mansingh") in view of U.S. Patent No. 7,043,633 to Fink et al. (hereinafter "Fink"). Claim 7 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Mansingh and Fink in view of U.S. Patent No. 7,126,941 to Clemm et al. (hereinafter "Clemm"). Applicant respectfully traverses this rejection because the references fail to teach or suggest all of the elements as set forth and arranged in the claims.

Specifically, Mansingh in view of Fink does not disclose or suggest "[a] network monitor connected to a first dedicated packet-switched data network for passively monitoring traffic on the first dedicated packet-switched data network to filter protocol frames in the first dedicated packet-switched data network in order to extract information about a network topology and status of a second automatically switched optical transport network, the first dedicated packet-switched data network connecting network controllers controlling associated network elements of the second automatically switched optical transport network," as recited in independent claim 1. Nor does Mansingh in view of Fink disclose or suggest "[a] method of passively monitoring

traffic on a first dedicated packet-switched data network to filter protocol frames in the first dedicated packet-switched data network in order to extract information about a network topology and status of a second automatically switched optical transport network, the first dedicated packet-switched data network connecting network controllers controlling associated network elements of the second automatically switched optical transport network,” as recited in independent claim 8.

The Examiner contends that Mansingh discloses the above-noted unique feature of claims 1 and 8. *See* page 2 of the Office Action. Specifically, the Examiner contends that the network monitor corresponds to to Mansingh’s network management system (NMS). Furthermore, citing col. 3, lines 56-58, the Examiner alleges that the first dedicated packet-switched data network, as recited in claims 1 and 8, corresponds to non-SONET out-of-band control channels. Such channels can be established, *e.g.*, via Ethernet. Finally, the Examiner alleges that the second automatically switched optical transport network, as recited in claims 1 and 8, corresponds to SONET network 110 depicted in Mansingh’s FIG. 1, whereby network 110 consists of optical fiber links 130 and network elements (NE) 120.1 through 120.8. *See* col. 2, lines 27-45.

In the June 25, 2008, Amendment, Applicant argued that the data is not directly obtained from the data traffic on the Ethernet network but indirectly from a database that is created by a software program that controls the network connections of the network elements. *See* pages 6 and 7 of the June 25 Amendment.

In response, the Examiner contends that network management system in Mansingh is connected to the network in which the network topology and status information is transmitted. In addition, the Examiner alleges that the network management system will extract the

information from the network no matter where the information is coming from. *See* pages 4 and 5 of the Office Action.

In other words, the Examiner argues that Mansingh teaches the above-noted unique feature of claims 1 and 8, because the NMS is allegedly connected to the SONET network 110 via the NE, and because the NMS retrieves information about network topology and status of the SONET network 110. By contrast, the network monitor in an exemplary embodiment of the present invention is connected to the first dedicated packet-switched data network and not to the second automatically switched optical transport network.

According to the Examiner, it does not matter how the information is retrieved and where it comes from. *See* pages 4 and 5 of the Office Action. Applicant respectfully disagrees with the Examiner's position.

The Examiner alleges that the network elements (NE) advertise the network topology and status of the SONET network 110 [via the separate Ethernet (*see* col. 3, lines 55-57)] and the monitor receives the network topology and status information transmitted in the dedicated packet switched data network [Ethernet] from the controllers and displays these information to a user. *See* page 2 of the Office Action. In other words, the Examiner alleges that the NE and not the NMS, extracts information from the Ethernet about the SONET network 110. That is, because the NMS is not connected to the separate Ethernet through which management information about the SONET network 110 is transferred. As a consequence, it is not even possible that the NMS filters the Ethernet and extracts information about the network topology or status information of the SONET network 110.

To the contrary, claims 1 and 8 require that the network monitor, and not the controllers, such as for example controllers CT1 - CT 5, which correspond to Mansingh's network elements

(NE), is connected to the first dedicated packet-switched data network and that the network monitor, and not the controllers, filter protocol frames in the first dedicated packet-switched data network in order to extract information about the network topology and status of the second automatically switched optical transport network.

In fact, the NMS “runs on a computer connected to [the] NE . . . by an Ethernet link or via some other interface.” *See* col. 4, lines 15-17. However, Mansingh does not disclose or suggest that the management information for the SONET is transmitted via the same Ethernet, through which the computer, on which the NMS runs, is connected to the NE.

In other words, even assuming that SONET management information in Mansingh is transferred from one NE to the other via an Ethernet, *i.e.*, via a dedicated packet-switched data network, nothing in Mansingh is disclosed about the NMS being also connected to the same dedicated packet-switched data network. However, even if the NMS would be connected to the same Ethernet, the Examiner acknowledges that the monitor receives the network topology and status information transmitted in the dedicated packet switched data network from the controllers. That is, the Examiner concedes that in Mansingh the NMS is not connected to the Ethernet (through which it connects to the NE) for passively monitoring traffic on this Ethernet to filter protocol frames in this Ethernet in order to extract information about the network topology and status of the SONET network. By contrast, “[e]ach NE 120 generates a topology map 340 . . . containing the data . . . for each link 130.” *See* col. 4, lines 66-67.

Such topology data is transferred from the NE to the NMS. As a consequence, there is no reason why the NMS should filter protocol frames in the Ethernet through which it is connected to the NE to extract information about the network topology and status of the SONET network, if

such information is already available in the NE and is already transferred from the NE to the NMS.

In summary, Applicant respectfully submits that in Mansingh, if at all, the NE and not the NMS, filters frames of the Ethernet and extracts information about network topology and status of the SONET network. However, although, in order to show obviousness, it is generally not relevant if certain functions are performed by one element instead of being performed by separate elements (one element in the alleged prior art can, for example, perform both of two functions, performed by two separate elements in an exemplary embodiment of the invention), Applicant submits that in the present invention, such a distinction is crucial. In other words, contrary to the Examiner's assertion, it matters how the information is retrieved and where it comes from.

Since, as discussed above, the NMS in Mansingh neither filters protocol frames from a first dedicated packet switched data network, nor extracts information about a network topology and status of a second transport network, Mansingh does not disclose suggest all of the elements as set forth and arranged in independent claims 1 and 8. Fink does not remedy the deficiencies of Mansingh. Therefore, Applicant respectfully requests that the rejection of claims 1 and 8 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Clemm is cited by the Examiner only for its alleged disclosure of detecting a mismatch between any filtered protocol frames and as such does also not cure the deficiencies of Mansingh in view of Fink. Thus claims 2-7 are patentable at least by virtue of their dependencies.

III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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